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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/399,630	09/20/1999	GARY M. REYNOLDS	KCC-12.681	2481

7590

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EXAMINER

REICHLE, KARIN M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 06/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

0 91399630

Applicant(s)

Reynolds et al

Examiner

Beckie

Group Art Unit

3761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 3-25-02
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 28-59 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 28-59 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The proposed drawing correction, filed on 4-15-02 is ☒ approved ☐ disapproved.
- ☒ The drawing(s) filed on 9-20-99 is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 3761

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the invention as claimed in claims 44 and 53 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. Approval of the formal drawings filed March 25, 2002 is held in abeyance until all objections thereto are overcome.

4. Applicant is advised that should claim 28 is be found allowable, claim 30 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

See lines 8 et seq of claim 28.

Art Unit: 3761

5. Claims 30, 43, 45-53 and 59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 appears to be redundant. In claim 43 are the thrust portions in claim 28 and the leg portions in this claim one and the same?

In claim 59, is the element in claim 54 and those in this claim one and the same?

A positive structural antecedent basis for "the waist section" (claim 45, line 10) should be defined. A positive structural antecedent basis for "rear waist section" and "the first portion" should be defined claim 52.

6. Claims 45-53 are objected to because of the following informalities: in claim 45, line 10, "conditioned" should be -- condition --. Appropriate correction is required.

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 28-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Schaar '150.

Claims 28-30, 36-38, 45, 54-55 and 57: see, e.g., Figures 1-14, column 3, line 41 – column 6, line 51, gasketing assembly 48, stretchable material 55.

Claims 28, 33, 46, 56: face portion is at least a portion of panel c of 48 and thrust portion is at least a portion of panels A, B, D, E of 48, see, e.g., Figure 10.

Art Unit: 3761

Claims 31-32, 34-35, 47: see column 4, lines 8-21, i.e. when absorbent pad not spaced, absorbent pad inherently forms compression resistant member and sheets 28 and 32 form casing. The terminology "soft" is considered relative.

Claims 39, 48, 44, 49, 50, 53, 59: see Figure 8, i.e. gap on each side is gasket element.

Claims 40-44, 49-53, 58: body side liner is surface 28 of 48, leg portions are at least portions of A, B, D, E of 48.

9. Applicant's remarks on pages 10-13 with regard to the informalities have been considered but are deemed moot in that the specifics have not been raised.

Applicant's remarks with regard to the prior art have been considered but are considered narrower than the claims and the prior art, e.g., column 4, lines 14-21, i.e. "preferably", not required, column 5, line 44- column 6, line 20.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3761

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the addition of claims 28-59.

The Examiner's regular work schedule is Monday-Thursday.

Any inquiry concerning this communication should be directed to Karin Reichle at telephone number (703) 308-2617.

  
K. Reichle:bhw

June 12, 2002

  
DENNIS RUHL  
PRIMARY EXAMINER